

Wednesday, July 21, 2005

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

**Mr. Joseph D'Alessandro
23136 Angola Estates Lewes, Delaware 19958
302 945 1554 Mr. Joseph D'Alessandro (Pro Se)**

0 5 - 4 9 6

Plaintiffs

Civil Docket No.

VERIFIED COMPLAINT DEMAND A JURY TRIAL (seventh amendment)

v.

**UNITED STATES OF AMERICA
(through the federal judicial courts)**

**"I HAVE THE SAME CIVIL RIGHTS AND LEGAL RIGHTS AS ANY Thug in a Black
Robe"**

**J. Curtis Joyner individually and as a Federal Employee,
Sue L. Robinson individually and as a Federal Employee, Joseph H. Rodriguez
individually and as a Federal Employee, Ruggero J. Aldsiert individually and as a Federal Employee,
Morton I. Greenberg individually and as a Federal Employee, Marjorie O. Rendell
individually and as a Federal Employee, and Joseph J. Farnan, Jr. individually and as a
Federal Employee.**

DEFENDANTS

COMPLAINT and Jurisdiction

If a judge does not fully comply with the Constitution, then his orders are void, In re Sawyer, 124 U.S. 200 (1888), he/she is without jurisdiction, and he/she has engaged in an act or acts of treason.

When a judge acts as a trespasser of the law, when a judge does not follow the law, the judge loses subject-matter jurisdiction and the judges orders are void, of no legal force or effect.

THESE THUGS IN BLACK ROBES STOLE MY Civil Rights, and United States Constitutional

Rights, and Civil Liberties,

and Legal Rights. Through Discrimination, Bias, Prejudice, Cronyism's, Collusion,

and Misprision, of Felony.

1. All defendants usurped the plaintiffs Civil Rights, U.S. Constitutional Rights, Civil Liberties, Legal Rights.

I WAS DENIED DUE PROCESS OF LAW PROCEDURAL AND SUBSTANTIVE DUE PROCESS.

I WAS DENIED A HEARING AND A VOICE TO BE HEARD ACCORDING TO FRCP.

Rule 56-- Summary Judgment and my First Amendment Rights, Ninth, and Fourteenth Amendment, and United States Constitution, all defendants usurped all plaintiffs civil rights and civil liberties.

Point of fact:

2. If a court converts a rule 12(b) dismissal into a summary judgment motion, then it must give the parties notice

and an opportunity to be heard. Rule 12 (b) Jacobson v. A.E. Capital Corp. 50 F.3d 1493, 1496 (9th Cir. 1995).

Procedure Trest v. Cain 96-7901, cert grant May 27, 1997.

Point of Fact:

3. All defendants must apply Delaware State Law. Delaware Constitution

THE DUE PROCESS CLAUSE The state is required to give all litigants the right to a hearing.

I was denied, a voice to be heard.

Point of Fact:

4. I was denied, a voice to be heard, according to The United States Judicial Conference code of

conduct CANON 3 Federal Judges shall perform the duties of their office impartially and diligently.

Judges should accord to every person who is legally interested in a proceeding, or that person's lawyer, full right to be heard according to the United States Constitution.

Point of Facts, Point of Laws

5. Through Discrimination, Bias, Prejudice, Cronyism's, Collusion, and Misprision, of Felony.

Discern the very first Federal Law they usurped was, TITLE 28 PART I CHAPTER 21

§ 455. Disqualification of justice, judge, or magistrate judge

Olga my wife filed original lawsuit 09/18/01

1:01-cv-00623-SLR D'Alessandro, et al v. LL Bean Incorporated, et al filed 09/18/01

Case: I was disabled beginning in Dec. 1989, on Social Security Disability.

Olga was the Head of Household and The sole Bread Winner of our Home we live by ourselves, i filed in the same lawsuit for Loss Of Consortium, financially, sexually, and loss psychologically. Judge Robinson dismissed me from case without a HEARING (nothing) no fact of law except her own Bias, and Prejudice.

Case: Then i filed a seperate lawsuit for Lost Of Consortium,

1:02-cv-00077-SLR Joseph D'Alessandro v. LL Bean Inc., et al filed 01/30/02

Guess who she assigned my case to HERSELF. You do not need to be a Rocket Scientist to figure out the results she dismissed it again.

NO HEARING NO VOICES TO BE HEARD. (Mis-Prison of Felony)

Then the Appeals Court denied my Appeal

TITLE 28 PART I CHAPTER 21 455 § 455. Disqualification of justice, judge, or magistrate judge

(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which

his impartiality might reasonably be questioned.

(b) He shall also disqualify himself in the following circumstances:

(1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary

facts concerning the proceeding;

**6. I HAD THE RIGHT TO A HEARING TO PRESENT PRIMA-FACIE EVIDENTS.
(SUBSTANTIVE DUE PROCESS)**

Point of fact:

Cannon v. Commission on Judicial Qualifications, (1975) 14 Cal. 3d 678, 694

Acts in excess of judicial authority constitutes misconduct, particularly where a judge deliberately disregards the requirements of fairness and due process.

Geiler v. Commission on Judicial Qualifications, (1973) 10 Cal.3d 270, 286

Society's commitment to institutional justice requires that judges be solicitous of the rights of persons who come before the court

Olmstad v. United States, (1928) 277 U.S. 438

"Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy."

Owen v. City of Independence

"The innocent individual who is harmed by an abuse of governmental authority is assured that he will be compensated for his injury."

This action is brought pursuant to

No Judge has Judicial Immunity when he/or she breaks the federal law and federal U.S.C.

And plaintiffs Civil Rights, U.S. Constitutional Rights, Civil Liberties, Legal Rights

Plaintiffs where denied there United States Constitutional Rights

7. This action is brought pursuant to (A) Article III § 2 which extends the jurisdiction to cases arising under the U.S. Constitution. Pursuant to Title 28 U.S. Code § 1331, in claims arising from violations of federal constitutional rights guaranteed in the First, Fifth, Seventh (right to a jury trial) Ninth (right to exist and a jury trial), Fourteenth Amendment, (equal protection according to law and The Erie Doctrine, and amendments

to the U.S. Constitution and redressable pursuant to Bivens v. Six Unknown Narcotics Agents 403 U.S. 388 (1971)."

The United States Does not have sovereign immunity, the U.S. Attorneys' are frauding the Court.

Federal sovereign immunity is a defense to liability rather than a right to be free from trial.

The Supreme Court has ruled that in a case involving the government's sovereign immunity the statute in question must be strictly construed in favor of the sovereign and may not be enlarged beyond the waiver its language expressly requires. See United States v. Nordic Village, Inc., 503 U.S. 30, 33-35 (1992).

"Case Law" United States to this date has not waved sovereign immunity for claims for damages. See United States v. North Side Realty Associates 324 F. Supp. 287, 291 N. D. GA. 1971

Gallegos v. Haggerty, Norther District of New York 689 F. Supp. 93 Williamson v. U.S. Department of Agriculture, 815 F. 2d. 369, ACLU Foundation V. Barr 952 F. 2d. 457, 293 U.S. Ap. DC 101. (CA DC 1991)

United States v. Olmstead, 277 U.S. 438 (1928)

TITLE 28 U.S.C. SECTION 1331

TITLE 28 U.S.C. § 372(c)(1)

Bivens vs. b. Six unknown narcotics agents 403 U.S. 388(1971)

Young v. Pierce DCTEX. 544 F. Supp. 1010

Mackey v. Indiana Hospital DCPA 562 F. Supp. 1251

**Rule 60. Relief from Judgment or Order (b) Mistakes; Inadvertence; Excusable Neglect;
Newly Discovered Evidence; Fraud, Etc.**

I WAS DENIED MY AMENDMENTS BY THESE THUGS

(Mallowy v. Hogan, 378 U.S. 1

"All rights and safeguards contained in the first eight amendments to the federal Constitution are equally applicable.")

(B) Mrs. D'Alessandro was denied a appeal by the EQUAL EMPLOYMENT OPPERTUNITY COMMISSION

on her employment charges. All defendants have ignored the Law, and plaintiffs civil and legal rights.

Federal Adminstrative Procedure Act 5 U.S.C. 702. Right of review A person suffering legal wrong because of

agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof and/or CFR Title 29--Labor

(C) A summary:

The ADMINISTRATIVE PROCEDURES ACT

§ 556. Hearings; The provisions in Section II on eligibility to deal with specific cases shall also apply to civil law . (U. S. District Courts, 1789). ("quasi-statutory law")

pursuant to Title 28 sec. 1331, and ADMINISTRATIVE PROCEDURES ACT § 556. Hearings;

**Title 29--Labor CHAPTER XIV--EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
PART 1601--PROCEDURAL REGULATIONS Failure to Amend & Failure to accept appeal**

from Plaintiff Mrs. Olga D'Alessandro Mrs. Tommaso Ignored Mrs. D'Alessandros' Civil Rights.
Sec. 1601.12 Contents of charge; amendment of charge & 1601.76 Right of party to request review.
The provisions in
Section II on eligibility to deal with specific cases shall also
apply to civil law.

"Administrative due process requires:

- (1) opportunity to be heard.**
- (2) due notice of hearing**
- (3) fair conduct of hearing**
- (4) support in record for decision**
- (5) submission of proposed findings and tentative report**
- (6) opportunity to file and to be heard upon exceptions to the report**

**[Ideal Farm, Inc. v. Benson, D.C. N.J. 1960, 181 F Supp 62, affirmed 288 F2d 608,
Certiorari denied 83 Set 1087, 327 US 965, 10 Led2d 128]**

**"The requirement of fair trial is binding on administrative agencies as well as on the
courts" [U.S. v. Brad, D.C. Cal 1968]**

**"The fair hearing essential to meet minimal requirements of due process includes
not only rudimentary fairness in conduct of hearing when and where held, but also
reasonable fair opportunity to be present at time and place fixed to cross-examine
any opposing witnesses, to offer evidence, and to be heard at least briefly in
defense." [Jeffries v. Olsen, D.C. Cal 1954, 121 Fsupp 163]**

**"A full hearing is one in which ample opportunity is afforded to all parties to make,
by evidence and argument, a showing fairly adequate to establish the propriety or
impropriety, from the standpoint of justice and law, of the step to be taken." [Boston
and M.R.R. v. U.S., D.C. Mass. 1962, 208 Fsupp 661]**

**"Agencies have latitude to expedite hearings in the public interest and to dispense
with evidentiary hearings in view of the nature of questions raised after a notice of
action is requested, but an agency cannot act on mere inspection of a file without
giving notice and opportunity to request a hearing, except in a narrow class of real
emergency cases." [Pennsylvania Gas & Water Co. v. Federal Power Commission,
427 F2d 568 1970, 138 U.S. App. D.C.]**

**"Under the Administative Procedures Act, the proponent of a rule or order has the
burden of proof. Burden of proof means going forward with the evidence." [Bosma v.
U.S. Dept. of Agriculture, C.A. 9, 1984, 754 F2d 804]**

**§ 556. Hearings; presiding employees; powers and duties; burden of proof; evidence; record as basis
of decision. And the defendants violated Federal Law as per The United States Federal Statues and
State Statues.**

(D) All defendants (THUGS IN BLACK ROBES) have USURPED Plaintiffs United States Constitution, Civil and Civil Libertie Rights, and Bill of Rights, and Legal Rights.

ALL DEFENDANTS ARE CHARGED WITH THE FOLLOWING FEDERAL LAW.

Mis-Prison of Felony.

18 USC Sec. 241 Conspiracy against rights.

18 USC Sec. 242 Deprivation of rights under color of law.

18 USC Sec. 1968 CIVIL INVESTIGATIVE DEMAND.

(E) If a judge does not fully comply with the Constitution, then his orders are void, In re Sawyer, 124 U.S. 200

(1888), he/she is without jurisdiction, and he/she has engaged in an act or acts of treason.

When a judge acts as a trespasser of the law, when a judge does not follow the law, the judge loses subject-matter jurisdiction and the judges orders are void, of no legal force or effect.

(E) A summary:

Legal abuses are invisible to the average citizen, are found readily in Legal Abuse Syndrome victims' assaults and lance the heart of a healthy society. Justice substantially validates the worth of the citizen and reaffirms his positive social identity. More and more, crime is being recognized as a major health problem. In a climate where it is predicted that every citizen will be a victim of violent or nonviolent crime at some point in his life, the future will be teeming with psycholegal issues. Four attitudes need to be adopted by the community of American citizens to insure healing from Legal Abuse Syndrome.

Abuse of Power

Oppression and abuse of power are injurious to the health of victims. Domination by abusers of bureaucratic power threatens the very functionality of the public and private sectors in our country. (Beguai).

Victims and Volunteers

Victims are not self-interested, narcissistic folks who sit around and wallow in their losses. They are courageous individuals who face their pain and care to right the wrongs.

They participate in the collision of evil and good as it is classically intended in order to achieve balance. Denial is popular, but far less responsible.

Lying Judges, Prosecutors and Public Officials

Trust is a social staple that must be protected just as earth and water be protected to provide for survival. When trust is damaged, the community suffers and society as a whole will eventually falter and collapse (Bok). Veterans of crime must exude zero tolerance for lying in courtrooms, lying in political campaigns, lying to cover-up, and deceptions through omittance and non performance by public officials and public servants.

Oath of Office

An oath is a person's word to faithfully serve. United States Code, Title 18 Sec. 1621 states: Whoever, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury and shall be fined no more than \$2,000.00 or imprisoned not more than five years or both.

Oaths add that touch of personal responsibility that requires a public promise to execute a job according to the law and in good faith. Each case of Legal Abuse Syndrome is a result of a violation of sworn duty. Oaths are usually required to be taken and then are kept on file. They seem to have become a forgotten formality in the course of public service.

(F) PLANTIFFS POINT OF AUTHORITY:

STARE DECISIS - to stand by that which is decided." The principal that the precedent decisions are to be followed by the courts.

CONSTITUTIONAL RIGHTS:

United States v. Classic, 313 U.S. 299, 326 (1941)

the wrongdoer is clothed with the authority of state law, is action taken `under color of' state law."

Boyd v. United, 116 U.S. 616 at 635 (1885)

Justice Bradley, "It may be that it is the obnoxious thing in its mildest form; but illegitimate and unconstitutional practices get their first footing in that way; namely, by silent approaches and slight deviations from legal modes of procedure. This can only be obviated by adhering to the

rule

that constitutional provisions for the security of persons and property should be liberally

gradual construed. A close and literal construction deprives them of half their efficacy, and leads to depreciation of the right, as if it consisted more in sound than in substance. It is the duty of the Courts to be watchful for the Constitutional Rights of the Citizens, and against any stealthy encroachments thereon. Their motto should be *Obsta Principiis*."

Downs v. Bidwell, 182 U.S. 244 (1901)

finds "It will be an evil day for American Liberty if the theory of a government outside supreme law lodgement in our constitutional jurisprudence. No higher duty rests upon this Court than to exert its full authority to prevent all violations of the principles of the Constitution."

Gomillion v. Lightfoot, 364 U.S. 155 (1966), cited also in Smith v. Allwright, 321 U.S. 649.644

"Constitutional 'rights' would be of little value if they could be indirectly denied."

Juliard v. Greeman, 110 U.S. 421 (1884)

withheld." Supreme Court Justice Field, "There is no such thing as a power of inherent sovereignty in the government of the United States... In this country, sovereignty resides in the people, and Congress can exercise power which they have not, by their Constitution, entrusted to it. All else is withheld."

Mallowy v. Hogan, 378 U.S. 1

"All rights and safeguards contained in the first eight amendments to the federal Constitution are equally applicable."

Miranda v. Arizona, 384 U.S. 426, 491; 86 S. Ct. 1603

"Where rights secured by the Constitution are involved, there can be no 'rule making' or legislation which would abrogate them."

Norton v. Shelby County, 118 U.S. 425 p. 442

protection; "An unconstitutional act is not law; it confers no rights; it imposes no duties; affords no protection; it creates no office; it is in legal contemplation, as inoperative as though it had never been passed."

Perez v. Brownell, 356 U.S. 44, 7; 8 S. Ct. 568, 2 L. Ed. 2d 603 (1958)

them "...in our country the people are sovereign and the government cannot sever its relationship to them by taking away their citizenship."

Sherar v. Cullen, 481 F. 2d 946 (1973)

"There can be no sanction or penalty imposed upon one because of his exercise of constitutional rights."

Simmons v. United States, 390 U.S. 377 (1968)

"The claim and exercise of a Constitution right cannot be converted into a crime"... "a denial of them would be a denial of due process of law".

Warnock v. Pecos County, Texas., 88 F3d 341 (5th Cir. 1996)

Eleventh Amendment does not protect state officials from claims for prospective relief when it is alleged that state officials acted in violation of federal law.

CORRUPTION OF AUTHORITY:

Burton v. United States, 202 U.S. 344, 26 S. Ct. 688 50 L.Ed 1057

United States Senator convicted of, among other things, bribery.

Cannon v. Commission on Judicial Qualifications, (1975) 14 Cal. 3d 678, 694

Acts in excess of judicial authority constitutes misconduct, particularly where a judge deliberately disregards the requirements of fairness and due process.

Geiler v. Commission on Judicial Qualifications, (1973) 10 Cal.3d 270, 286

Society's commitment to institutional justice requires that judges be solicitous of the rights of persons who come before the court.

Gonzalez v. Commission on Judicial Performance, (1983) 33 Cal. 3d 359, 371, 374

Acts in excess of judicial authority constitutes misconduct, particularly where a judge deliberately disregards the requirements of fairness and due process.

Olmstad v. United States, (1928) 277 U.S. 438

"Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy."

Owen v. City of Independence

"The innocent individual who is harmed by an abuse of governmental authority is assured that he will be compensated for his injury."

Perry v. United States, 204 U.S. 330, 358

"I do not understand the government to contend that it is any less bound by the obligation than a private individual would be..." "It is not the function of our government to keep the citizen from falling into error; it is the function of the citizen to keep the government from falling into error."

Ryan v. Commission on Judicial Performance, (1988) 45 Cal. 3d 518, 533

Before sending a person to jail for contempt or imposing a fine, judges are required to provide due

process of law, including strict adherence to the procedural requirements contained in the Code of

Civil Procedure. Ignorance of these procedures is not a mitigating but an aggravating factor.

U.S. v. Lee, 106 U.S. 196, 220 1 S. Ct. 240, 261, 27 L. Ed 171 (1882)

"No man in this country is so high that he is above the law. No officer of the law may set that law at

defiance, with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law are bound to obey it."

"It is the only supreme power in our system of government, and every man who, by accepting office

participates in its functions, is only the more strongly bound to submit to that supremacy, and to observe the limitations which it imposes on the exercise of the authority which it gives."

Warnock v. Pecos County, Texas, 88 F3d 341 (5th Cir. 1996)

Eleventh Amendment does not protect state officials from claims for prospective relief when it is alleged that state officials acted in violation of federal law.

DISMISSAL OF SUIT:

It can be argued that to dismiss a civil rights action or other lawsuit in which a serious factual pattern or allegation of a cause of action has been made would itself be violating of procedural due process as it would deprive a pro se litigant of equal protection of the law vis a vis a party who is represented by counsel.

Also, see Federal Rules of Civil Procedure, Rule 60 - Relief from Judgment or Order (a) Clerical Mistakes and (b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud, etc.

Warnock v. Pecos County, Texas, 88 F3d 341 (5th Cir. 1996)

Eleventh Amendment does not protect state officials from claims for prospective relief when it is alleged that state officials acted in violation of federal law.

Walter Process Equipment v. Food Machinery, 382 U.S. 172 (1965)

in a "motion to dismiss, the material allegations of the complaint are taken as admitted". From this vantage point, courts are reluctant to dismiss complaints unless it appears the plaintiff can

Gibson, prove no set of facts in support of his claim which would entitle him to relief (see Conley v. 355 U.S. 41 (1957)).

EQUAL PROTECTION UNDER THE LAW

Cochran v. Kansas, 316 U.S. 255, 257-258 (1942)

"However inept Cochran's choice of words, he has set out allegations supported by affidavits, and nowhere denied, that Kansas refused him privileges of appeal which it afforded to others. ***

The State properly concedes that if the alleged facts pertaining to the suppression of Cochran's appeal were disclosed as being true, ... there would be no question but that there was a violation of the equal protection clause of the Fourteenth Amendment."

Duncan v. Missouri, 152 U.S. 377, 382 (1894)

Due process of law and the equal protection of the laws are secured if the laws operate on all alike, and do not subject the individual to an arbitrary exercise of the powers of government."

Giozza v. Tiernan, 148 U.S. 657, 662 (1893), Citations Omitted

"Undoubtedly it (the Fourteenth Amendment) forbids any arbitrary deprivation of life, liberty or property, and secures equal protection to all under like circumstances in the enjoyment of their rights... It is enough that there is no discrimination in favor of one as against another of the same class. ...And due process of law within the meaning of the [Fifth and Fourteenth] amendment is secured if the laws operate on all alike, and do not subject the individual to an arbitrary exercise of the powers of government."

Kentucky Railroad Tax Cases, 115 U.S. 321, 337 (1885)

"The rule of equality... requires the same means and methods to be applied impartially to all the constituents of each class, so that the law shall operate equally and uniformly upon all persons in similar circumstances".

Truax v. Corrigan, 257 U.S. 312, 332

"Our whole system of law is predicated on the general fundamental principle of equality of application to the law. 'All men are equal before the law,' 'This is a government of laws and not men,' 'No man is above the law,' are all maxims showing the spirit in which legislatures, executives, and courts are expected to make, execute and apply laws. But the framers and adopters of the (Fourteenth) Amendment were not content to depend... upon the spirit of equality which might not be insisted on by local public opinion. They therefore embodied that spirit in a specific guaranty."

JUDICIAL IMMUNITY:

Judges have given themselves judicial immunity for their judicial functions. Judges have no judicial immunity for criminal acts, aiding, assisting, or conniving with others who perform a criminal act or for their administrative/ministerial duties, or for violating a citizen's constitutional rights. When a judge has a duty to act, he does not have discretion - he is then not performing a judicial act; he is performing a ministerial act.

(and Nowhere was the judiciary given immunity, particularly nowhere in Article III; under our Constitution, if judges were to have immunity, it could only possibly be granted by amendment even less possibly by legislative act), as Art. I, Sections 9 & 10, respectively, in fact expressly prohibit such, stating, "No Title of Nobility shall be granted by the United States" and "No state shall... grant any Title of Nobility." Most of us are certain that Congress itself doesn't understand the inherent lack of immunity for judges.

Article III, Sec. 1, "The Judicial Power of the United States shall be vested in one supreme court, and in such inferior courts, shall hold their offices during good behavior."

Tort & Insurance Law Journal, Spring 1986 21 n3, p 509-516, "Federal tort law: judges cannot invoke judicial immunity for acts that violate litigants' civil rights." - Robert Craig Waters.

Ableman v. Booth, 21 Howard 506 (1859)

"No judicial process, whatever form it may assume, can have any lawful authority outside of the limits of the jurisdiction of the court or judge by whom it is issued; and an attempt to enforce it beyond these boundaries is nothing less than lawless violence."

Chandler v. Judicial Council of the 10th Circuit, 398 U.S. 74, 90 S. Ct. 1648, 26 L. Ed. 2d 100

Justice Douglas, in his dissenting opinion at page 140 said, "If (federal judges) break the law, they can be prosecuted." Justice Black, in his dissenting opinion at page 141 said, "Judges, like other people, can be tried, convicted and punished for crimes... The judicial power shall extend to all cases, in law and equity, arising under this Constitution".

Cooper v. Aaron, 358 U.S. 1, 78 S. Ct. 1401 (1958)

Note: Any judge who does not comply with his oath to the Constitution of the United States wars against that Constitution and engages in acts in violation of the supreme law of the land. The judge is engaged in acts of treason.

The U.S. Supreme Court has stated that "no state legislator or executive or judicial officer can war

against the Constitution without violating his undertaking to support it". See also In Re Sawyer, 124 U.S. 200 (188); U.S. v. Will, 449 U.S. 200, 216, 101 S. Ct. 471, 66 L. Ed. 2d 392, 406 (1980); Cohens v. Virginia, 19 U.S. (6 Wheat) 264, 404, 5 L. Ed 257 (1821).

Cooper v. O'Conner, 99 F.2d 133

There is a general rule that a ministerial officer who acts wrongfully, although in good faith, is nevertheless liable in a civil action and cannot claim the immunity of the sovereign.

Davis v. Burris, 51 Ariz. 220, 75 P.2d 689 (1938)

A judge must be acting within his jurisdiction as to subject matter and person, to be entitled to immunity from civil action for his acts.

Forrester v. White, 484 U.S. at 227-229, 108 S. Ct. at 544-545 (1987); Westfall v. Erwin, 108 S. Ct. 580 (1987); United States v. Lanier (March 1997)

Constitutionally and in fact of law and judicial rulings, state-federal "magistrates-judges" or any government actors, state or federal, may now be held liable, if they violate any Citizen's Constitutional rights, privileges, or immunities, or guarantees; including statutory civil rights.

A judge is not immune for tortious acts committed in a purely Administrative, non-judicial capacity.

Gregory v. Thompson, F.2d 59 (C.A. Ariz. 1974)

Generally, judges are immune from suit for judicial acts within or in excess of their jurisdiction even if those acts have been done maliciously or corruptly; the only exception being for acts done

in

the clear absence of all jurisdiction.

Hoffsommer v. Hayes, 92 Okla 32, 227 F. 417

"The courts are not bound by an officer's interpretation of the law under which he presumes to act."

Marbury v. Madison, 5 U.S. (2 Cranch) 137, 180 (1803)

"... the particular phraseology of the constitution of the United States confirms and strengthens the

principle, supposed to be essential to all written constitutions, that a law repugnant to the constitution is void, and that courts, as well as other departments, are bound by that instrument."

"In declaring what shall be the supreme law of the land, the Constitution itself is first mentioned; and not the laws of the United States generally, but those only which shall be made in pursuance

of

the Constitution, have that rank".

"All law (rules and practices) which are repugnant to the Constitution are VOID".

Since the 14th Amendment to the Constitution states "NO State (Jurisdiction) shall make or enforce any law which shall abridge the rights, privileges, or immunities of citizens of the United States nor deprive any citizens of life, liberty, or property, without due process of law, ... or equal protection under the law", this renders judicial immunity unconstitutional.

Piper v. Pearson, 2 Gray 120, cited in Bradley v. Fisher, 13 Wall. 335, 20 L.Ed. 646 (1872)

"Where there is no jurisdiction, there can be no discretion, for discretion is incident to jurisdiction."

Pulliam v. Allen, 466 U.S. 522 (1984); 104 S. Ct. 1781, 1980, 1981, and 1985

In 1996, Congress passed a law to overcome this ruling which stated that judicial immunity doesn't

exist; citizens can sue judges for prospective injunctive relief.

"Our own experience is fully consistent with the common law's rejection of a rule of judicial immunity. We never have had a rule of absolute judicial immunity. At least seven circuits have indicated affirmatively that there is no immunity... to prevent irreparable injury to a citizen's constitutional rights..."

to

"Subsequent interpretations of the Civil Rights Act by this Court acknowledge Congress' intent reach unconstitutional actions by all state and federal actors, including judges... The Fourteenth Amendment prohibits a state [federal] from denying any person [citizen] within its jurisdiction

the

equal protection under the laws. Since a State [or federal] acts only by its legislative, executive or judicial authorities, the constitutional provisions must be addressed to those authorities, including state and federal judges..."

"We conclude that judicial immunity is not a bar to relief against a judicial officer acting in her [his] judicial capacity."

Mireles v. Waco, 112 S. Ct. 286 at 288 (1991)

A judge is not immune for tortious acts committed in a purely Administrative, non-judicial capacity;

however, even in a case involving a particular attorney not assigned to him, he may reach out into

the hallway, having his deputy use "excessive force" to haul the attorney into the courtroom for chastisement or even incarceration. A Superior Court Judge is broadly vested with "general jurisdiction." Provided the judge is not divested of all jurisdiction, he may have his actions excused

as per this poor finding.

Scheuer v. Rhodes, 416 U.S. 232, 94 S. Ct. 1683, 1687 (1974)

Note: By law, a judge is a state officer. The judge then acts not as a judge, but as a private individual (in his person). When a judge acts as a trespasser of the law, when a judge does not follow the law, the Judge loses subject-matter jurisdiction and the judges' orders are not voidable, but VOID, and of no legal force or effect.

The U.S. Supreme Court stated that "when a state officer acts under a state law in a manner violative of the Federal Constitution, he comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct. The State has no power to impart to him any immunity from responsibility to the supreme authority of the United States."

Stump v. Sparkman, id., 435 U.S. 349

Some Defendants urge that any act "of a judicial nature" entitles the Judge to absolute judicial immunity. But in a jurisdictional vacuum (that is, absence of all jurisdiction) the second prong necessary to absolute judicial immunity is missing.

A judge is not immune for tortious acts committed in a purely Administrative, non-judicial capacity.

Rankin v. Howard, 633 F.2d 844 (1980)

The Ninth Circuit Court of Appeals reversed an Arizona District Court dismissal based upon absolute judicial immunity, finding that both necessary immunity prongs were absent; later, in Ashelman v. Pope, 793 F.2d 1072 (1986), the Ninth Circuit, en banc, criticized the "judicial nature" analysis it had published in Rankin as unnecessarily restrictive. But Rankin's ultimate result was not changed, because Judge Howard had been independently divested of absolute

judicial

immunity by his complete lack of jurisdiction.

U.S. Fidelity & Guaranty Co. (State use of), 217 Miss. 576, 64 So. 2d 697

When a judicial officer acts entirely without jurisdiction or without compliance with jurisdiction requisites he may be held civilly liable for abuse of process even though his act involved a decision made in good faith, that he had jurisdiction.

U.S. v. Lee, 106 U.S. 196, 220 1 S. Ct. 240, 261, 27 L. Ed 171 (1882)

"No man in this country is so high that he is above the law. No officer of the law may set that law at

defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law and are bound to obey it."

"It is the only supreme power in our system of government, and every man who, by accepting office

participates in its functions, is only the more strongly bound to submit to that supremacy, and to observe the limitations which it imposes on the exercise of the authority which it gives."

Zeller v. Rankin, 101 S.Ct. 2020, 451 U.S. 939, 68 L.Ed 2d 326

expressly When a judge knows that he lacks jurisdiction, or acts in the face of clearly valid statutes

depriving him of jurisdiction, judicial immunity is lost.

PRO SE RIGHTS:

Brotherhood of Trainmen v. Virginia ex rel. Virginia State Bar, 377 U.S. 1; v. Wainwright, 372 U.S. 335; Argersinger v. Hamlin, Sheriff 407 U.S. 425

Litigants can be assisted by unlicensed laymen during judicial proceedings.

Conley v. Gibson, 355 U.S. 41 at 48 (1957)

"Following the simple guide of rule 8(f) that all pleadings shall be so construed as to do substantial

justice"... "The federal rules reject the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits." The court also cited Rule 8(f) FRCP, which holds that all pleadings shall be construed to do substantial justice.

Davis v. Wechler, 263 U.S. 22, 24; Stromberg v. California, 283 U.S. 359; NAACP v. Alabama, 375 U.S. 449

"The assertion of federal rights, when plainly and reasonably made, are not to be defeated under the

name of local practice."

Elmore v. McCammon (1986) 640 F. Supp. 905

"... the right to file a lawsuit pro se is one of the most important rights under the constitution and laws."

Federal Rules of Civil Procedures, Rule 17, 28 USCA "Next Friend"

A next friend is a person who represents someone who is unable to tend to his or her own interest.

Haines v. Kerner, 404 U.S. 519 (1972)

"Allegations such as those asserted by petitioner, however inartfully pleaded, are sufficient"...

"which we hold to less stringent standards than formal pleadings drafted by lawyers."

Jenkins v. McKeithen, 395 U.S. 411, 421 (1959); Picking v. Pennsylvania R. Co., 151 Fed 2nd 240;

Pucket v. Cox, 456 2nd 233

Pro se pleadings are to be considered without regard to technicality; pro se litigants' pleadings are not to be held to the same high standards of perfection as lawyers.

Maty v. Grasselli Chemical Co., 303 U.S. 197 (1938)

"Pleadings are intended to serve as a means of arriving at fair and just settlements of controversies

between litigants. They should not raise barriers which prevent the achievement of that end.

Proper pleading is important, but its importance consists in its effectiveness as a means to accomplish the end of a just judgment."

N/ ACP v. Button, 371 U.S. 415; United Mineworkers of America v. Gibbs, 383 U.S. 715; and

Jo nson v. Avery, 89 S. Ct. 747 (1969)

Members of groups who are competent nonlawyers can assist other members of the group achieve the goals of the group in court without being charged with "unauthorized practice of law."

Picking v. Pennsylvania Railway, 151 F.2d, 240, Third Circuit Court of Appeals

The plaintiff's civil rights pleading was 150 pages and described by a federal judge as "inept".

Nevertheless, it was held "Where a plaintiff pleads pro se in a suit for protection of civil rights, the

Court should endeavor to construe Plaintiff's Pleadings without regard to technicalities."

Puckett v. Cox, 456 F. 2d 233 (1972) (6th Cir. USCA)

It was held that a pro se complaint requires a less stringent reading than one drafted by a lawyer per Justice Black in Conley v. Gibson (see case listed above, Pro Se Rights Section).

Roadway Express v. Pipe, 447 U.S. 752 at 757 (1982)

"Due to sloth, inattention or desire to seize tactical advantage, lawyers have long engaged in

dilatory practices... the glacial pace of much litigation breeds frustration with the Federal Courts and ultimately, disrespect for the law."

Sherar v. Cullen, 481 F. 2d 946 (1973)

"There can be no sanction or penalty imposed upon one because of his exercise of Constitutional Rights."

Schware v. Board of Examiners, United State Reports 353 U.S. pages 238, 239.

"The practice of law cannot be licensed by any state/State."

The UNITED STATES SUPREME COURT Schware Doctrine.

Schware v. Board of Examiners, United State Reports 353 U.S.

"The practice of law cannot be licensed by any body of men united by profession, or constituting a community of a particular character and/or Union State, the supreme public power within a sovereign political entity.

Sims v. Aherns, 271 SW 720 (1925)

"The practice of law is an occupation of common right."

CIRCUIT COURT A CRIMINAL ENTERPRISE

The Seventh Circuit Court of Appeals held that the Circuit Court of Cook County is a criminal enterprise. U.S. v. Murphy, 768 F.2d 1518, 1531 (7th Cir. 1985).

The United States Supreme Court recently acknowledged the judicial corruption in Cook County, when it stated that Judge "Maloney was one of many dishonest judges exposed and convicted through 'Operation Greylord', a labyrinthine federal investigation of judicial corruption in Chicago". Bracey v. Gramley, 519 U.S. 1074, 117 S.Ct. 726 (1997).

Since judges who do not report the criminal activities of other judges become principals in the criminal activity, 18 U.S.C. Section 2, 3 & 4, and since no judges have reported the criminal activity of the judges who have been convicted, the other judges are as guilty as the convicted judges.

The criminal activities that the Federal Courts found in the Circuit Court of Cook County still exist, and are today under the care, custody and control of Judge Greylord II (Chief Judge Donald O'Connell). The Circuit Court of Cook County remains a criminal enterprise.

JUDICIAL IMMUNITY

Judges have given themselves judicial immunity for their judicial functions. Judges have no judicial immunity for criminal acts, aiding, assisting, or conniving with others who perform a criminal act, or for their administrative/ ministerial duties. When a judge has a duty to act, he does not have discretion - he is then not performing a judicial act, he is performing a ministerial act.

Judicial immunity does not exist for judges who engage in criminal activity, for judges who connive with, aid and abet the criminal activity of another judge, or to a judge for damages sustained by a person who has been harmed by the judge's connivance with, aiding and abetting, another judge's criminal activity.

TRESPASSERS OF THE LAW

The Illinois Supreme Court has held that "if the magistrate has not such jurisdiction, then he and those who advise and act with him, or execute his process, are trespassers." Von Kettler et.al. v. Johnson, 57 Ill. 109 (1870)

Under Federal law which is applicable to all states, the U.S. Supreme Court stated that if a court is "without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal in opposition to them. They constitute no justification; and all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers." Elliot v. Piersol, 1 Pct. 328, 340, 26 U.S. 328, 340 (1828)

The Illinois Supreme Court held that if a court "could not hear the matter upon the jurisdictional paper presented, its finding that it had the power can add nothing to its authority, - it had no authority to make that finding." The People v. Brewer, 128 Ill. 472, 483 (1928). The judges listed below had no legal authority (jurisdiction) to hear or rule on certain matters before them. They acted without any jurisdiction.

When judges act when they do not have jurisdiction to act, or they enforce a void order (an order issued by a judge without jurisdiction), they become trespassers of the law, and are engaged in treason (see below).

The Court in Yates v. Village of Hoffman Estates, Illinois, 209 F.Supp. 757 (N.D. Ill. 1962) held that "not every action by a judge is in exercise of his judicial function. ... it is not a judicial function for a judge to commit an intentional tort even though the tort occurs in the courthouse."

When a judge acts as a trespasser of the law, when a judge does not follow the law, the judge loses subject-matter jurisdiction and the judges orders are void, of no legal force or effect.

The U.S. Supreme Court, in Scheuer v. Rhodes, 416 U.S. 232, 94 S.Ct. 1683, 1687 (1974) stated that "when a state officer acts under a state law in a manner violative of the Federal Constitution, he "comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct. The State has no power to impart to him any immunity from responsibility to the supreme authority of the United States." [Emphasis supplied in original].

By law, a judge is a state officer.

The judge then acts not as a judge, but as a private individual (in his person).

VIOLATION OF OATH OF OFFICE

In Illinois, 705 ILCS 205/4 states "Every person admitted to practice as an attorney and counselor at law shall, before his name is entered upon the roll to be kept as hereinafter provided, take and subscribe an oath, substantially in the following form:

'I do solemnly swear (or affirm, as the case may be), that I will support the constitution of the United States and the constitution of the state of Illinois, and that I will faithfully discharge the duties of the office of attorney and counselor at law to the best of my ability.'

In Illinois, a judge must take a second oath of office. Under 705 ILCS 35/2 states, in part, that "The several

judges of the circuit courts of this State, before entering upon the duties of their office, shall take and subscribe the following oath or affirmation, which shall be filed in the office of the Secretary of State:

'I do solemnly swear (or affirm, as the case may be) that I will support the constitution of the United States, and the constitution of the State of Illinois, and I will faithfully discharge the duties of judge of _____ court, according to the best of my ability.'"

Further, if the judge had enlisted in the U.S. military, then he has taken a third oath. Under Title 10 U.S.C. Section 502 the judge had subscribed to a lifetime oath, in pertinent part, as follows: "I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign or domestic; that I will bear true faith and allegiance to the same; ...".

The U.S. Supreme Court has stated that "No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it." Cooper v. Aaron, 358 U.S. 1, 78 S.Ct. 1401 (1958).

Any judge who does not comply with his oath to the Constitution of the United States wars against that Constitution and engages in acts in violation of the Supreme Law of the Land. The judge is engaged in acts of treason.

Having taken at least two, if not three, oaths of office to support the Constitution of the United States, and the Constitution of the State of Illinois, any judge who has acted in violation of the Constitution is engaged in an act or acts of treason (see below).

If a judge does not fully comply with the Constitution, then his orders are void, In re Sawyer, 124 U.S. 200 (1888), he/she is without jurisdiction, and he/she has engaged in an act or acts of treason.

TREASON

Whenever a judge acts where he/she does not have jurisdiction to act, the judge is engaged in an act or acts of treason. U.S. v. Will, 449 U.S. 200, 216, 101 S.Ct. 471, 66 L.Ed.2d 392, 406 (1980); Cohens v. Virginia, 19 U.S. (6 Wheat) 264, 404, 5 L.Ed 257 (1821)

What is the penalty for treason?

These Thugs have acted without jurisdiction and therefore have engaged in an act or acts of treason:

**Judge Philip L. Bronstein
Justice Robert Chapman Buckley
Judge Grace G. Dickler
Judge Thomas C. Dudgeon (DuPage County)
Presiding Judge Timothy C. Evans
Judge Lester D. Foreman
Chief Judge Michael Galasso (DuPage County)
Justice Michael J. Gallagher
Judge Francis A. Gembala
Justice Thomas E. Hoffman
Judge Moshe Jacobius
Judge Thomas James
Judge Aubrey F. Kaplan**

Judge Philip S. Lieb
Judge Veronica B. Mathein
Justice Sheila M. O'Brien
Chief Judge Donald O'Connell (Cook County)
Judge Edmund Ponce de Leon
Judge Daniel J. Sullivan
Justice Mary Jane Theis
Judge William F. Ward, Jr.

Any judge or attorney who does not report the above judges for treason as required by law may themselves be guilty of misprision of treason, 18 U.S.C. Section 2382.

(G) Plaintiff prays for the following relief:

Treble and Punitive Damages.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: Thursday, July 21, 2005

(Signature of Plaintiff)

A handwritten signature in black ink, appearing to read "Joseph L. Ollerund", written in a cursive style.

Joseph A. Alexander
23136 Pelham George Drive
Angola Estates
Lower Delaware 19958-9342

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